IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.24250 of 2002
& WPMP No.33344 of 2002

K.Subramanian .. Petitioner

Vs.

1.The Tamil Nadu Taxation
Special Tribubal, Chennai,
rep. by its Registrar, Chennai-1.

2.The Tamil Nadu Sales-Tax Appellate
Tribunal, Additional Bench,
Coimbatore-641 018.

3.The Appellate Assistant
Commissioner (CT), Erode.

4.The Deputy Commercial Tax
Officer, Part Road Circle,
Erode. `` .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records on the file of the first respondent in OP No.319/2002 dated 02.04.2002 and quash the impugned proceedings of the first respondent and further direct the third respondent to condone the delay in filing the appeal and adjudicate the appeal on merits.

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For Petitioner : Mr.R.Venkatanarayanan for
Mr.Subbaraya Aiyar Padmanabhan

For Respondents : Mr.Haja Nazirudeen,
Spl. Govt. Pleader (T)

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ORDER

(Order of the Court was delivered by P.SATHASIVAM, J.)

The above writ petition is directed against the order of the Tamil Nadu Taxation Special Tribunal, Chennai, dated 02.04.2002 made in O.P.No.319 of 2002, in and by which, the Tribunal, after finding that the petitioner has failed to file an appeal in time as provided, has dismissed the said O.P.

2. It is not in dispute that under Section 31 of the Tamil Nadu General Sales Tax Act, the appeal lies to the Appellate Assistant Commissioner, Erode, and the appeal has to be filed within a period of 30 days from the date on which the order of the original authority was served on him in the manner prescribed. Proviso to Section 31 gives power to the Appellate Assistant Commissioner, Erode, to condone the delay of further period of 30 days, if there is sufficient cause. It is also not in dispute that after expiry of 60 days (30+30), the Appellate Authority has no power to condone the delay. The said view has been approved in series of decisions. In fact, the Appellate Tribunal has adverted to all those decisions and dismissed the petition filed by the petitioner. In view of the admitted legal position, we are in agreement with the conclusion arrived at by the Tribunal. Consequently, the writ petition fails and the same is dismissed. No costs. WPMP No.33344 of 2002 is also dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Registrar, Tamil Nadu Taxation
Special Tribunal, Chennai. 1.

2.The Tamil Nadu Sales-Tax Appellate
Tribunal, Additional Bench, Coimbatore-641 018.

3.The Appellate Assistant Commissioner (CT), Erode.
4.The Deputy Commercial Tax Officer, Part Road Circle, Erode.

+ 1 cc to Mr. Spl Government Pleader (T) SR no. 48094

BS(CO)
SR/31.10.2006 W.P.No.24250 of 2002

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